

Before the
Administrative Hearing Commission
State of Missouri



JENNIFER BLOUIN, DVM,

Petitioner,

vs.

MISSOURI VETERINARY MEDICAL
BOARD,

Respondent.

No. 14-1435 VM

DECISION

Jennifer Blouin is not entitled to licensure by reciprocity as a veterinarian in Missouri.

Procedure

On July 25, 2014, the Missouri Veterinary Medical Board (“Board”) denied Blouin’s request for veterinary licensure in Missouri by reciprocity. On August 29, 2014, Blouin filed a complaint appealing the denial of her application. The Board filed an answer on September 30, 2014, and a motion for decision on the pleadings on October 29, 2014. Blouin responded to the Board’s motion on November 13, 2014.

Regulation 1 CSR 15-3.446(4) provides:

A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party’s pleading, taken as true, entitles another party to a favorable decision.

We make our findings of fact, therefore, from Blouin’s complaint and the attachments thereto.

Findings of Fact

1. Blouin has shadowed veterinarians and practiced veterinary medicine for three years, including at the Veterinary Emergency and Specialty Hospital of Wichita, Kansas. She has been exposed to a wide variety of medical and surgical cases.
2. Blouin has been the attending doctor on over 3,000 cases and has had the opportunity to practice at a high level.
3. Blouin's colleagues have a high opinion of her clinical proficiency, medical knowledge, compassion, and communication skills.
4. By letter dated July 25, 2014, the Board denied Blouin's application for licensure by reciprocity. The Board determined that Blouin's work experience did not meet the requirements of § 340.238¹ and 20 CSR 2270-2.060(1)² because she had not been actively engaged in the profession in another state for five consecutive years immediately prior to her application. It also informed her that she could pursue licensure in Missouri by retaking the North American Veterinary Licensing Examination ("NAVLE").

Conclusions of Law

We have jurisdiction to hear Blouin's complaint. Section 340.238 and § 621.045, RSMo Supp. 2013. Blouin has the burden to show that she is entitled to licensure. Section 621.120. In determining whether to grant a license, we exercise the same authority that has been granted to the Board. *State Bd. of Regis'n for the Healing Arts v. Trueblood*, 324 S.W.3d 259, 264-67 (Mo. App. W.D., 2012). When an applicant for licensure files a complaint, the agency's answer provides notice of the grounds for denial of the application. *Ballew v. Ainsworth*, 670 S.W.2d 94, 103 (Mo. App., E.D. 1984).

¹Statutory references are to RSMo 2000, unless otherwise noted.

² All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

Blouin applied for licensure by reciprocity. The Board denied Blouin's application for failure to satisfy the requirements of § 340.238.1(1) and 20 CSR 2270-2.060(1)(A) and (B).

Under § 340.238.1(1), the Board may issue a license if:

The applicant has been actively engaged in the profession in another state, territory, district or province of the United States or Canada for a period of at least five consecutive years immediately prior to making application in Missouri and provides the board with a complete listing of all locations of all previous places of practice and licensure in chronological order[.]

For purposes of reciprocity, 20 CSR 2270-2.060(1) provides:

(1) To be licensed by reciprocity, section 340.238, RSMo requires an applicant to have been actively engaged in the practice of the profession in another state, territory, district or province of the United States or Canada for at least five (5) consecutive years immediately prior to making application in Missouri.

(A) For the purposes of reciprocity, the term "actively engaged" shall mean that the applicant has regularly and consistently practiced veterinary medicine. Whether or not the board requires examinations, and what examinations may be required in a particular case, may be determined by the information provided on the application, or the board may request the applicant produce records demonstrating the regular and consistent practice of veterinary medicine.

In her complaint, Blouin admits that she has practiced as a veterinarian for only three years. But she contends that her three years in a high case load emergency clinic are analogous to or exceed the expertise gained in five years of a general practice. She states that she passed the NAVLE several years ago, but that it could take as long as a year for her to prepare for the test, take it, resubmit her application, and then take the state placement test. She feels this is unnecessary because she currently has the skills required to practice high level veterinary medicine.

We have no reason to doubt Blouin's assertions, and her letters of reference from other veterinarians with whom she has practiced are glowing. But this Commission was created by

statute, and we have only such powers as are expressly conferred or necessarily implied by statute. *United Pharmacal Co. of Mo., Inc. v. Mo. Bd. of Pharmacy*, 208 S.W.3d 907, 913 (Mo. banc 2006) (internal quotation omitted). We do not have authority to add to or subtract from the terms of the statutes or to make an exception to their requirements. *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985). Nor do we have any equitable powers. *See Straube v. Bowling Green Gas Co.*, 227 S.W.2d 666, 668 (Mo. 1950) (Public Service Commission, as administrative body, has no power to declare or enforce any principle of equity). To qualify for licensure by reciprocity, § 340.238 requires five years of active engagement in the profession prior to application. Blouin lacks that qualification. Therefore, we lack the authority to grant Blouin the relief she requests.

Summary

Blouin is not entitled to licensure by reciprocity as a veterinarian. We cancel the hearing.
SO ORDERED on November 21, 2014.

\s\ Karen A. Winn

KAREN A. WINN
Commissioner